

# **EXHIBIT B**

Exhibits: 1-13

Volume 1, Pages 1-209

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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SHEILA LYONS, DVM and HOMECOMING  
FARM, INC.,

Plaintiffs

v

Civil Action No. 1:11-CV-12192

THE AMERICAN COLLEGE OF VETERINARY  
SPORTS MEDICINE AND REHABILITATION,  
INC. and THE AMERICAN VETERINARY  
MEDICAL ASSOCIATION, INC.,

Defendants

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DEPOSITION OF SHEILA LYONS, DVM  
Monday, January 15, 2013, 10:11 a.m.

Lawson & Weitzen, LLP

88 Black Falcon Avenue, Suite 345

Boston, Massachusetts

----- Reporter: Susan J. Blatt, RPR -----

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22  
23  
24

1 A. Yes.

2 Q. Could you describe for me what your  
3 employment is.

4 A. I practice veterinary medicine, the  
5 specialty of sports medicine and rehabilitation.

6 Q. That is a full-time occupation?

7 A. Yes. If you include my work for  
8 Homecoming Farm which calls upon my work as a  
9 veterinarian, yes.

10 Q. If we were just for this moment to set  
11 aside the work that you do for Homecoming Farm,  
12 could you describe for me approximately how much  
13 time you spend on an annual basis with respect to  
14 just your practice of veterinary medicine?

15 A. It varies so much. It's really not  
16 possible to give you a specific answer to that  
17 question.

18 Q. Could you just then describe for me your  
19 practice of veterinary medicine as it currently  
20 exists?

21 A. I have private clients for whom I  
22 provide consulting services, and they're horse  
23 owners, sport horse owners, and those horses move  
24 all over the world, and so, as needs arise, I go to

1 where the horses are and provide the services that  
2 are necessary.

3 Q. Are you essentially on call to attend to  
4 these clients' needs whenever they may arise?

5 A. Within the context of what I offer, yes.

6 Q. And what types of services do you offer  
7 and provide to these clients?

8 A. Proactive sports medicine and reactive  
9 rehabilitative medicine. I do pre-purchase exams or  
10 in other ways review records on horses that clients  
11 may be considering purchasing. I help to administer  
12 programs for my clients' employees to carry out in  
13 the care of these horses.

14 Q. And approximately how many clients do  
15 you have at this point in time?

16 A. That's really not something that I can  
17 give you a number for because it really depends on  
18 their needs.

19 Q. Okay. Well, do you bill for your  
20 services?

21 A. Yes, I do.

22 Q. And how often do you bill for your  
23 services?

24 A. Typically within 30 days of whenever I

1 have provided a service.

2 Q. And do you, within your veterinary  
3 practice, do you employ anybody else?

4 A. No.

5 Q. So I take it, then, you're your own  
6 bookkeeper --

7 A. Yes.

8 Q. -- and invoicer?

9 A. Yes.

10 Q. In that regard, do you have a monthly  
11 pattern by which the 30th of every month you bill  
12 for whatever services you rendered that month or do  
13 you just bill when service is complete on a specific  
14 job?

15 A. Typically after service is complete on a  
16 specific job.

17 Q. And with respect to your clients and  
18 your billing, do you prepare -- how do you prepare  
19 those bills? Are they a written invoice for  
20 service?

21 A. Yes.

22 Q. And do you have a computer database upon  
23 which you keep track of your time?

24 A. No.

1 Q. Do you have a computer database as to  
2 the addresses of your clients?

3 A. No.

4 Q. And if you were called upon to do so,  
5 how would you ascertain how many clients you  
6 serviced in the year of 2012, for instance?

7 A. I would most likely go through my  
8 patient records and get the information from those.

9 Q. And the patient records -- is your  
10 veterinary practice exclusively an equine practice?

11 A. Yes. I have on rare occasion consulted  
12 on other species.

13 Q. The questioning I'm asking you about now  
14 is really -- I'm just trying to get an idea of your  
15 current employment and your current practice. And  
16 so do you have any estimate as to how many clients  
17 or horses you treated in the year 2012?

18 A. No.

19 Q. Can you tell me approximately how many  
20 weeks of 2012 you were engaged in your veterinary  
21 practice and the administration thereof?

22 A. No.

23 Q. Do you keep any time records?

24 A. Yes, I do. But those would be patient



1 records.

2 Q. And your patient records for each horse  
3 would reflect how much time you spend --

4 A. Yes.

5 Q. -- servicing that horse?

6 A. Yes.

7 Q. Now, my understanding is -- I'll step  
8 back for a minute. With regard to your veterinary  
9 practice, do you have a doing business name that you  
10 bill out as?

11 A. Sheila Lyons, DVM.

12 Q. Do you operate that business or your  
13 sole proprietorship out of your home in Brockton?

14 A. Yes.

15 Q. I take it your home in Brockton is not a  
16 horse farm; is that correct?

17 A. That's correct.

18 Q. Am I correct it's located near the city  
19 center of Brockton?

20 A. Well, it's -- yes.

21 Q. Put another way, you don't have horses  
22 trailered to your --

23 A. No.

24 Q. -- business address and never look at

1       them --

2           A.           No.

3           Q.           -- or perform any medical veterinary  
4       services there --

5           A.           No.

6           Q.           -- right? So with regard to your  
7       veterinary practice you have to travel wherever the  
8       horse is, correct?

9           A.           Yes.

10          Q.          Do you have any clients in  
11       Massachusetts?

12          A.          No.

13          Q.          Do you have any clients in New England?

14          A.          It's -- I don't recall the addresses of  
15       all of my clients, so I can't offer a definitive  
16       answer to that.

17          Q.          Well, with respect to your provision of  
18       veterinary services in 2012, is it correct that  
19       essentially the time that you would devote to it  
20       would include necessarily the travel from Brockton,  
21       Mass. to, let's say, Florida?

22          A.          Yes.

23          Q.          And that travel time required to get  
24       there, would that be something that you also bill

1 for and consider it part of your veterinary  
2 services?

3 A. I can't offer a yes or no to that.

4 Q. Again, the purpose for my questioning  
5 now is just to figure out how much time you're  
6 currently devoting to your veterinary practice, and  
7 so I'm just trying to see, did you travel often in  
8 2012 with respect to your veterinary practice?

9 A. Again, with your specific question, I  
10 can't answer that.

11 Q. Did you travel at all in 2012 --

12 A. Yes.

13 Q. -- with respect to your veterinary  
14 practice? Let me ask the question a different way,  
15 how much did you earn from your veterinary practice  
16 in 2012?

17 A. I don't recall.

18 Q. Do you keep track of your earnings from  
19 your veterinary practice?

20 A. Yes.

21 Q. I understand you, like most of us, file  
22 federal tax returns and state tax returns; is that  
23 correct?

24 A. Yes.

1 Q. Are you preparing your state and federal  
2 tax returns for the year 2012?

3 A. No.

4 Q. Do you have an accountant that prepares  
5 your state and federal tax returns?

6 A. No.

7 Q. Do you prepare and file those on your  
8 own?

9 A. Yes.

10 Q. And with respect to 2012, do you have  
11 any estimate as to how much you earned from your  
12 veterinary practice?

13 A. No.

14 Q. Do you know how much you earned in 2011  
15 from your veterinary practice?

16 A. No.

17 Q. Do you recall -- strike that.

18 Are you claiming in this action that  
19 your veterinary practice has been financially  
20 affected by the actions of the AVMA?

21 A. Yes.

22 Q. How has your veterinary practice been  
23 affected in any way by the actions of the AVMA?

24 A. When the AVMA gave recognition to the

1 defendant's college as a recognized specialty board,  
2 it in doing so created the perception in some minds  
3 that what my clients knew about my involvement with  
4 The American College of Veterinary Sports Medicine  
5 and Rehabilitation was in fact not correct. So it  
6 damaged my reputation in some minds and caused  
7 confusion about that issue.

8 Q. Have you quantified any diminishment in  
9 your earnings as a veterinarian with respect to the  
10 actions of the AVMA?

11 A. I don't have a specific number.

12 Q. Let me ask you this. Do you know  
13 whether your income has diminished since the AVMA's  
14 provisional recognition of the college in 2010?

15 A. Yes.

16 Q. How much have your earnings as a  
17 veterinarian diminished since 2010 to the present?

18 A. I don't know.

19 Q. At this point I looked at the documents  
20 produced and saw there were tax returns produced by  
21 Homecoming Farm, but I didn't see any of your  
22 personal tax returns. Would you through your  
23 counsel agree to produce those personal federal tax  
24 returns and state tax returns?

1           A.           I would have to discuss that with my  
2 lawyers.

3           Q.           Okay. With respect to the clients that  
4 you mentioned that were in their minds confused or  
5 believed that your reputation was damaged, can you  
6 identify which clients you're speaking of?

7           A.           Again, I would have to discuss that with  
8 my attorneys because I just don't know what is  
9 protected in terms of my client relationship.

10          Q.           Well, who would you call in this case as  
11 a witness for the proposition that they thought less  
12 of you or somehow were confused by the AVMA's  
13 actions in terms of your clients?

14          A.           No decision has been made as to who to  
15 call at this time.

16                       (Ms. Klieman joined the deposition.)

17          Q.           If I wanted to independently question  
18 your clients about this matter, which clients of  
19 yours would you suggest I talk to to confirm that  
20 they in fact thought less of you or were confused by  
21 the actions of the AVMA?

22          A.           Again, I don't know that I can share  
23 client confidentiality.

24                       MR. DICKISON: Can we take a quick

1 Q. I take it that you didn't back them up  
2 by any type of computer media --

3 A. No.

4 Q. -- is that correct? Did you ever print  
5 them out and keep a file copy?

6 A. No.

7 Q. One other item on your recordkeeping,  
8 you mentioned before with regard to your patient  
9 records that you would sometimes when you're on the  
10 road, you'd input -- come back home and input them  
11 in your computer. With regard to the paper files,  
12 the original files, would you still retain a copy of  
13 those original paper files or would you throw them  
14 out once you entered that information into the  
15 computer?

16 A. In some cases I kept the paper files  
17 because, once again, because of the nature of my  
18 work, even though I would eventually do my best to  
19 make electronic records of all of my patient  
20 records, it was in some cases important to have  
21 those paper files because, again, I needed them when  
22 I was in a stall.

23 Q. With regard to your veterinary practice  
24 in general, has it suffered as a result of the

1 actions you allege have been engaged in by the  
2 American Veterinary Medical Association?

3 A. Yes.

4 Q. How has it suffered?

5 A. When the AVMA gave the provisional  
6 recognition to Dr. Gillette and his board and the  
7 charter members and the organizing committee members  
8 of that college were instantly given diplomate  
9 status, I was suddenly the one who was not a  
10 diplomate of the college that I had started. So in  
11 the horse industry, amongst clients, amongst  
12 trainers, being board-certified carries a lot of  
13 weight and it implies a level of expertise and it  
14 certifies someone as having that expertise. So when  
15 the AVMA joined and really perfected the  
16 infringement of the other defendants, then the way I  
17 see it in my mind is that, you know, I was  
18 essentially frozen out of a marketplace that I had  
19 created.

20 Q. Let me ask you this, though. Can you  
21 identify any client that you lost as a result of the  
22 AVMA's provisional recognition of the college and  
23 your not receiving a diplomate?

24 A. I can't offer you names at this time,



1 but I can tell you that I have been told by a number  
2 of horsemen across the country that not only my not  
3 being recognized as a specialist but this sort of  
4 dark cloud, if you will, that hangs over me for not  
5 being recognized as the founder of this organization  
6 has cast doubt on my reputation and on my ability as  
7 a clinician. So I can tell you that many people  
8 that I work with have told me that they would like  
9 to have me get involved with a horse, they're  
10 colleagues in one sense or another, they're service  
11 providers to these horses, and then they'll say  
12 "When are you going to get that all straightened  
13 out? Because this is a problem."

14 Q. Let me just ask you this, though.  
15 Without disclosing the names of folks at this point,  
16 can you tell me numbers of how many clients you lost  
17 as a result of the AVMA's provisional recognition of  
18 the college as a recognized specialty organization?

19 A. To give you a number, no, I can't. In  
20 part because the nature of the sport horse industry  
21 is that it's continuously turning over. It's  
22 probably a little bit like the legal profession in  
23 that while I have had some clients who have kept  
24 sport horses for as long as I've been in practice

1 and I've enjoyed a relationship with them for that  
2 length of time, especially with the economy as it  
3 is, there is a pretty high turnover rate, a much  
4 faster turnover rate of potential clients.

5 Q. No. Understanding that, but did you  
6 have any existing clients that you were servicing  
7 that you know for a fact stopped doing business with  
8 you because of the AVMA's either provisional  
9 recognition of the college or publication on its  
10 website of statements about the college or use of  
11 the mark?

12 A. I believe yes, but again I may not -- I  
13 believe yes.

14 Q. And how many clients would that be?

15 A. Well, there are two that I can think of,  
16 and they're both international clients.

17 Q. And at some point are you going to be  
18 able to seek their permission to disclose their  
19 identities?

20 A. Exactly. And that's a client where I  
21 would have to ask their permission first, if that's  
22 all right.

23 Q. Can you tell us the amount of veterinary  
24 services that you provided for them in 2012?

1 A. None.

2 Q. The amount of veterinary services you  
3 provided for them in 2011?

4 A. I would have to look at my records.

5 Q. Can you give us a magnitude of the  
6 amount of lost income for those two clients?

7 A. Again, I would have to look at my  
8 records.

9 MR. KLUFT: We've been going for about  
10 an hour since the last break. Do you want to take a  
11 break?

12 MR. DICKISON: I'm okay unless the  
13 witness would like to.

14 Q. With respect to your current sources of  
15 income, setting aside the veterinary practice that  
16 you have, do you have any other sources of income?

17 A. No, I don't.

18 Q. Do you make any money or any earnings  
19 from Homecoming Farm?

20 A. No.

21 Q. Do you make any money or income from the  
22 mark that's at issue in this case, The American  
23 College of Veterinary Sports Medicine and  
24 Rehabilitation?

1           A.           Indirectly, yes.

2           Q.           Okay. And did you make any such income  
3 in 2012?

4           A.           No.

5           Q.           When you say -- did you make any income  
6 with respect to the mark in 2011?

7           A.           No.

8           Q.           Have you ever made any money with  
9 respect to the mark?

10          A.          Well, maybe that's where I need to  
11 explain a little bit. When I say indirectly, it  
12 became well known that I had founded The American  
13 College of Veterinary Sports Medicine and  
14 Rehabilitation starting back in 1995. So when you  
15 ask if I have had any income related to that, it  
16 would be by virtue of reputation for the  
17 understanding of what it took to create the plan and  
18 to execute it as I have and to do the research that  
19 led to an understanding of how to improve services  
20 in veterinary medicine.

21          Q.          I understand that and respect that and I  
22 will ask you probably a lot about that later. Right  
23 now what I'm trying to understand is, for 2012, did  
24 you make any income from the sale of or provision of

1 any educational services under the mark --

2 A. Oh, I see.

3 Q. -- American College of Veterinary Sports  
4 Medicine and Rehabilitation?

5 A. No, I earned no income doing that. It's  
6 strictly volunteer.

7 Q. Now, in 2012 -- let me step back for a  
8 minute. I take it you own the mark that's at issue  
9 in this matter, right?

10 A. Yes.

11 Q. And therefore, just to be clear,  
12 Homecoming Farm, Inc. does not own the mark, right?

13 A. That's correct.

14 Q. And has that always been the case?

15 A. Yes.

16 Q. And with respect to the mark -- and let  
17 me refer you to Exhibit 1, the complaint here. If  
18 you look at page 5, paragraph 16, the allegation  
19 there is "Dr. Lyons created and is the lawful owner  
20 of the registered trademark 'The American College of  
21 Veterinary Sports Medicine and Rehabilitation,'  
22 Serial No. 78635662 which was registered by Dr.  
23 Lyons on May 24, 2005." That's an accurate  
24 statement?

1           A.           Okay. Thank you. Yes, so that would be  
2           in the form of donations and funds received by the  
3           nonprofit. The way we tend to work it is that the  
4           fundraising that we do substantially covers the cost  
5           of the educational programs that we offer.

6           Q.           I understand the fundraising part of  
7           things, and we'll talk about that. I'm asking  
8           strictly about income earned with third parties,  
9           either students or audience members or others who  
10          would pay you or Homecoming Farm for educational  
11          materials.

12          A.           In 2012?

13          Q.           2012, and 2011 for that matter.

14          A.           Again, I'm sorry. I would have to look  
15          at the records.

16          Q.           Do you recall how much you spent on  
17          marketing either the acronym or the full mark in  
18          2012?

19          A.           Well, I don't recall a specific number,  
20          but, for example, simply maintaining the websites is  
21          a form of marketing. Maintaining the domain names.

22          Q.           Absolutely. How much do you ballpark  
23          you spent on maintaining the website?

24          A.           Probably, well, I would estimate between

1 500 and a thousand dollars.

2 Q. And were there additional amounts for  
3 maintaining the servers or is that maintaining the  
4 servers and maintaining the domain names?

5 A. I believe that would be mostly  
6 maintaining the domain names and simply purchasing  
7 the website.

8 Q. And in addition to those costs, did you  
9 make any expenditures of any sort in terms of print  
10 advertising?

11 A. Not in 2012. We didn't have the funds  
12 to do it.

13 Q. Did you make any expenditures of print  
14 advertising in support of either the full mark or  
15 the acronym in 2011?

16 A. By printing our materials that we use as  
17 flyers, then that would I assume be an expense?

18 Q. Sure. How much was that, approximately?

19 A. Again, I'm sorry, I'd have to look at  
20 those records. I would say between 500 and 1,500  
21 dollars.

22 Q. Have you ever made any expenditures to  
23 advertise either the full mark or the acronym in any  
24 newspaper or magazine or newsletter?

1           A.           No.

2           Q.           Have you ever made any expenditure to  
3           advertise the full mark or the acronym in any  
4           non-Internet electronic media like television, radio  
5           or video?

6           A.           I believe at one point I paid for an ad  
7           in The Blood Horse as a listing. And, I'm sorry, I  
8           don't recall the year, but there was a time period  
9           when there was a fee for that service.

10          Q.           Okay. Let me get back to that in a  
11          minute. My question was, have you ever made any  
12          advertising expenditure to advertise the full mark  
13          or the acronym in any television or radio medium?

14          A.           No.

15          Q.           With regard to The Blood Horse, is that  
16          a -- what is The Blood Horse?

17          A.           The Blood Horse is a horse racing  
18          industry publication, and it's I believe the most  
19          widely distributed publication in this country.

20          Q.           And you believe you placed one  
21          advertisement in that publication at some point in  
22          time?

23          A.           I believe actually our listing has been  
24          in that publication for many years. And at one



1 point, I don't know whether it's because they  
2 required everyone to pay a fee for it or whether I  
3 increased the level of service that I was asking  
4 them for, but there was a fee for it, yes.

5 Q. And is there a -- when you say an  
6 advertisement, what are you talking about? Like a  
7 quarter page advertisement?

8 A. No. It would be a listing in their  
9 directory.

10 Q. And what would the listing have been  
11 offering?

12 A. Veterinary and -- sports medicine and  
13 rehabilitation, educational services, clinical  
14 seminars.

15 Q. And do you recall what time period you  
16 would have placed that advertisement?

17 A. To the best of my recollection, it would  
18 have been about 2005 through the present.

19 Q. With respect to your educational  
20 services, where do you offer the seminars  
21 physically?

22 A. It depends on who's hosting it. Until  
23 we can create a permanent campus for this, which is  
24 the phase we're at right now, then we offer these

1 clinical seminars and lectures at conferences,  
2 universities, stables, meeting halls.

3 Q. At present, you don't have any physical  
4 premises for your educational services --

5 A. No.

6 Q. -- is that correct? Would it be fair to  
7 say that you don't have any or employ any teachers  
8 to provide any services; is that correct?

9 A. That's correct.

10 Q. And has that always been the case, that  
11 you've never had a physical premises for, a  
12 permanent physical premises to offer educational  
13 services under either the full mark or the acronym  
14 mark?

15 A. Well, the educational services actually  
16 began when I did the research at Homecoming Farm in  
17 New Hampshire, but since you're relating to in the  
18 name of the full mark, then, no, that would have  
19 been a permanent location. They would have been the  
20 predecessor to the courses that we have now, but the  
21 mark we didn't use in association with all of those  
22 programs until 1995.

23 Q. And are there any students who are  
24 receiving educational services under either the full

1 mark or the acronym at this point in time?

2 A. Through our seminars, yes.

3 Q. Do you offer any specific courses that a  
4 student can enroll in under either the full mark or  
5 the acronym mark?

6 A. Yes. And they're organized on an as-we-  
7 can-offer-them basis.

8 Q. How many students were enrolled in a  
9 program or educational service offered under the --  
10 by you under the full mark or the acronym mark in  
11 2012?

12 A. In 2012 we've had no enrollment in  
13 ongoing programs.

14 Q. What about in 2011, any enrollment in  
15 2011?

16 A. No.

17 Q. When was the last time you had anyone  
18 enrolled in a course under either the full mark or  
19 the acronym mark?

20 A. To the best of my recollection, that  
21 would have been preceding the recognition of the  
22 college. It was before our funds essentially  
23 disappeared.

24 Q. Have you -- we've talked about

1 advertising expenditures. Have you ever engaged a  
2 marketing consultant with respect to marketing the  
3 full mark or acronym mark?

4 A. Not to specifically market the mark,  
5 but, yes, to market the plan to create a permanent  
6 campus for this.

7 Q. If you look at Exhibit No. 2, one of the  
8 questions that we ask in interrogatory number 4,  
9 "Please identify all consumer surveys" --

10 MR. SARROUF: Which exhibit number?

11 MR. DICKISON: Exhibit 2, page 8.

12 MR. SARROUF: Your reference is as to  
13 which?

14 MR. DICKISON: Interrogatory number 4.

15 Q. We asked you to identify any consumer  
16 surveys that you intend to utilize at trial to  
17 "demonstrate that the ACVSMR mark has acquired  
18 distinctiveness or secondary meaning in the  
19 marketplace so that the ACVSMR mark identifies  
20 Plaintiffs as the source of educational surveys."

21 Have you or anyone on your behalf  
22 undertaken any consumer surveys with regard to the  
23 mark, the full mark or the acronym mark?

24 A. When you say undertaken, I know that we

1 discovered a survey actually done by the AVMA  
2 regarding the employment of veterinarians, and  
3 that's broken down into those who have board-  
4 certified credentials and those who don't. But  
5 other than that, no consumer surveys. We haven't  
6 conducted any, and at this time I don't know whether  
7 or not we'll be conducting those. That would be  
8 left up to experts and attorneys, not me.

9 Q. Understood. What I may be clumsily  
10 getting at is, in the past, let's say in the past  
11 ten years, have you ever gone to a marketing firm or  
12 professional consultant and said -- and asked them  
13 to conduct a survey to see how many consumers or  
14 veterinarians or students of veterinary practice  
15 know about the mark or the acronym?

16 A. No, I've never hired anyone to do that.  
17 (Brief recess.)

18 MR. DICKISON: Back on the record.

19 Q. Dr. Lyons, do you, with respect to the,  
20 I'm calling it the full mark and the acronym, do you  
21 allow Homecoming Farm, Inc. to use those marks?

22 A. Yes, I do.

23 Q. Is there any document in writing between  
24 you and Homecoming Farm that allows Homecoming Farm

1 to use those marks?

2 A. No, there isn't.

3 Q. Has there ever been any such document?

4 A. No.

5 Q. And are you, with respect to Homecoming  
6 Farm, Inc., are you the sole shareholder of that  
7 company?

8 A. Well, there actually aren't any  
9 shareholders because it's a nonprofit corporation.  
10 Sometimes I've heard it referred to as a nonstock.  
11 So there are no shareholders.

12 Q. And are you the president of that  
13 company?

14 A. Yes, I am.

15 Q. Have you always been the president of  
16 that company?

17 A. I believe in the early years, no, we  
18 rotated.

19 Q. And when you say "we," did you have  
20 other employees or officers?

21 A. There are board members, yes.

22 Q. Tell me about Homecoming Farm, Inc.,  
23 when was that founded?

24 A. Well, it was incorporated I believe in

1 1992. However, the work began in 1989.

2 Q. Who founded the company?

3 A. Well, I did, but there was a -- my  
4 co-founder was a board member as well.

5 Q. And who was that?

6 A. June Gilch.

7 Q. And who was she?

8 A. June is an educator and someone who  
9 brought to the project not only an understanding of  
10 horses, but she came with the understanding of -- as  
11 an education administrator.

12 Q. And is she a veterinarian?

13 A. No.

14 Q. What was her occupation by trade?

15 A. As an education administrator. She had  
16 been the assistant superintendent of schools for  
17 Attleboro, or it may be one of the Attleboros, and  
18 also for Nantucket. And on Nantucket, I don't want  
19 to misspeak, whether she was the assistant  
20 superintendent or something roughly equivalent to  
21 that.

22 Q. How was it that you two became involved  
23 with Homecoming Farm, Inc.?

24 A. I met June immediately upon graduation

1           Q.           Sure. Well, let me ask you to tell me,  
2 with respect to Homecoming Farm it had a slate of  
3 officers, president, treasurer and clerk. Is that  
4 correct?

5           A.           It had a president, vice president,  
6 secretary and treasurer.

7           Q.           Who were those individuals during this  
8 time period of 1989 to 1995?

9           A.           I would have to look at the records and  
10 tax returns, things like that, where those would be  
11 listed.

12          Q.           Were you one of those individuals?

13          A.           Yes, I was.

14          Q.           Were there any employees of Homecoming  
15 Farm during that time period?

16          A.           No.

17          Q.           Have there ever been any employees of  
18 Homecoming Farm, Inc.?

19          A.           No.

20          Q.           Has Homecoming Farm, Inc. ever owned any  
21 real estate?

22          A.           No.

23          Q.           Has it ever owned any significant  
24 assets --



1           A.           Well, yes, he -- we continued a research  
2           project that, quite frankly, is never ending. This  
3           is the study of pathology and how it relates to  
4           diseases that were once considered primary and where  
5           we have figured out over the years that they're  
6           actually a result of susceptible tissues being  
7           exposed to repetitive traumas. So Michael continues  
8           to do these dissections, and when I can, when I have  
9           the opportunity when I'm in California, then we pick  
10          up and collaborate on that and advance the science.

11          Q.           Does Homecoming Farm, Inc. currently  
12          have a board?

13          A.           Yes, it does.

14          Q.           Who is on that board?

15          A.           Myself, June Gilch, Joyce Falese, and  
16          Patricia Cullen.

17          Q.           Who is Joyce Falese?

18          A.           Joyce Falese is a horse owner and one of  
19          the principals in the Camden, South Carolina massage  
20          therapy school. She's a massage therapist that  
21          works on some of the best horses in this country.

22          Q.           And Patricia Cullen, who is she?

23          A.           Patricia Cullen is a dressage rider and  
24          horsewoman.

1           A.           Okay. The International Federation For  
2 Sports Medicine. The International Association of  
3 Physical Medicine and Rehabilitation, I would have  
4 to check my records to know whether I have kept my  
5 membership current in the -- it's sports medicine,  
6 human sports medicine. And the American Academy of  
7 Physical Medicine and Rehabilitation.

8           Q.           Have you ever had any professional  
9 affiliation with the AVMA, my client?

10          A.           Yes. I'm sorry. I've been a member.  
11 Yes. And I've been a member of the AAEP as well.

12          Q.           What's that?

13          A.           The American Association of Equine  
14 Practitioners.

15          Q.           Just turning to the AVMA, how long have  
16 you been a member of their organization?

17          A.           I joined as a student member while I was  
18 at Tufts, and I believe I kept my membership active,  
19 although I would need to look at my records to be  
20 certain of this, through approximately 2005, but,  
21 again, I'd have to look at the records to be sure of  
22 the dates.

23          Q.           So you're not currently a member of the  
24 AVMA?

1           A.           No, I'm not.

2           Q.           And you haven't been a member since  
3 2005?

4           A.           Or thereabouts, whenever that date was,  
5 yes.

6           Q.           Is there any reason for ending your  
7 membership with the AVMA?

8           A.           Yes, there was.

9           Q.           Okay. What was that?

10          A.           Well, it was the -- the AVMA had  
11 assigned their liaison to our organizing committee,  
12 and when I was blind-sided by the false accusations  
13 of Dr. Gillette at the meeting in Philadelphia and  
14 the AVMA liaison did not act as I believed should  
15 have occurred, which is to see that a committee that  
16 had been assigned a liaison would conduct its  
17 business, if you will, in keeping with the policies  
18 of the AVMA; and so it was such a difficult time for  
19 me and such a period of adjustment and humiliation  
20 that paying my dues to the AVMA after all of that  
21 occurred was just something I chose not to do.

22          Q.           And so if the events in Philadelphia  
23 occurred in July of 2004, I take it then your  
24 decision not to pay your dues to the AVMA would have

1 Q. And prior to that time you had already  
2 used the mark in connection with your lectures,  
3 seminars and educational opportunities?

4 A. Yes.

5 Q. And basically your use -- prior to  
6 meeting Dr. Gillette, did you spend any money  
7 advertising the mark or marketing the mark in terms  
8 of newsletters or print media or anything like that?

9 A. No, not -- no.

10 Q. Would it be safe to say that your use of  
11 the mark was as you've described in general, by  
12 these various lectures, seminars and educational  
13 opportunities that you provided around the United  
14 States and internationally; is that correct?

15 A. Yes, that's correct. I'm not sure that  
16 that is the limit as to how I used the mark. I need  
17 a little bit more time to think about that, so that  
18 may not be a complete answer. It's just my best  
19 answer right now.

20 Q. Sure. Do you have an understanding as  
21 to, prior to the time that you met Dr. Gillette as  
22 to approximately how many people out there in the  
23 world of veterinarians in particular knew about The  
24 American College of Veterinary Sports Medicine and

1     Rehabilitation?

2           A.           Let's see, 1999. Well, I wouldn't feel  
3     comfortable stating what other people knew, but let  
4     me, if it's all right --

5           Q.           Sure. You're absolutely right. But let  
6     me ask you this in a different way and maybe you can  
7     answer it. How many people were exposed to the mark  
8     through your lectures and other activities?

9           A.           Thank you.

10          Q.           Would you estimate if you can?

11                   MR. KLUFT: I'm sorry to interrupt. Is  
12     that still prior to 1999?

13                   MR. DICKISON: Yes. Prior to meeting  
14     Dr. Gillette in 1999.

15          A.           The Equine Excellence Initiative would  
16     have been out for four full years, so through the  
17     submission of grant proposals, the submission of the  
18     Equine Excellence Initiative, just as a way of  
19     introducing our organization, including The American  
20     College of Veterinary Sports Medicine and  
21     Rehabilitation, sent to businesses of all types from  
22     pharmaceutical companies to -- everything associated  
23     with the horse sports industries to veterinary  
24     teaching hospitals, even the AVMA, I submitted a

1 copy of the Equine Excellence Initiative.

2 And I came upon this note in my  
3 documents; that's why I believe I recall the date  
4 was 1997. I would estimate, and this is a rough  
5 estimate looking back far in time, but I would say  
6 that I submitted at least a thousand copies of the  
7 Equine Excellence Initiative worldwide.

8 Q. And so let me turn to your meeting with  
9 Dr. Gillette at this conference in Oregon. How did  
10 you end up meeting him at that conference?

11 A. One of the things I wanted to do at this  
12 conference was to identify colleagues that I might  
13 like to discuss my intention to now take my work  
14 product and make an application to the AVMA for  
15 potential recognition as a veterinary specialty.  
16 And in my conversations with the AVMA, and the first  
17 one I know was with a Dr. Park and the second one I  
18 believe was with Dr. Sabin; there may have been  
19 another in there somewhere, but those were the ones  
20 that I found some notes on or some reference to that  
21 refreshed my memory as to the timing.

22 It was my understanding that I would  
23 need to organize a committee with a minimum of six  
24 members; and that since any new veterinary specialty

1 MR. DICKISON: Do you mind reading back  
2 the last portion of her answer.

3 (Read back.)

4 A. Thank you.

5 Q. Do you remember what you were about to  
6 say?

7 A. I do. I remember explaining to Dr.  
8 Sabin that, with all due respect to the veterinarian  
9 teaching hospitals, that this was not only a  
10 clinical specialty but because it was focused in  
11 sports medicine, at least from the equine  
12 standpoint, that the education and the programs  
13 needed to be centered where these horses train and  
14 compete. When I went to the conference in Oregon,  
15 it was not only to present my paper on superficial  
16 flexor tendonitis but it was with the intention of  
17 seeing if I could identify individuals who might  
18 meet the criteria both that the AVMA had suggested I  
19 seek and any additions to my project.

20 And so it was at that point that I  
21 introduced myself to Dr. Gillette. I explained  
22 where I was in this project, which was that I had  
23 the curriculum essentially hashed out. I had the  
24 structure. And I asked him if he had any opinion

1 about whether or not this would be a beneficial  
2 specialty.

3 And at first he seemed a little confused  
4 about why the two would be joined, and he said  
5 something to the effect that he had already  
6 approached the AVMA or was about to, something like  
7 that, but it was specifically for canine sports  
8 medicine. So I was able to share with him my  
9 understanding from my contact with them that it  
10 would need to at the very least include all species  
11 that would benefit from it. But then I went into my  
12 reasons for how not only through my unique education  
13 but through my world view, really, thanks to my  
14 practice, of why it was essential that  
15 rehabilitation be linked with sports medicine in  
16 order to have either one advance.

17 So I agreed to send him the materials,  
18 some of the materials, it was the Equine Excellence  
19 Initiative and some other documents, and I invited  
20 him to just look at them and review them and to let  
21 me know whether or not he thought that this was  
22 something that he would want to join.

23 Q. Okay. At the conclusion of your  
24 discussions with Dr. Gillette in Oregon in 1999,



1 A. Okay.

2 Q. And you can tell maybe the Bates number  
3 on the bottom is your counsel's. It says right on  
4 it, obviously, May of 2003. Do you remember how you  
5 obtained this?

6 A. I don't.

7 Q. Do you remember the first time you  
8 became generally aware that there were policies and  
9 procedures regarding the establishment and  
10 recognition of veterinary specialty organizations?

11 A. It would have been in the general time  
12 period of 2001 to 2003, so somewhere in there, yes.

13 Q. Before you met Dr. Gillette, what was  
14 your contact with the AVMA about this subject? You  
15 had had one conversation with Dr. Park, you believe?

16 A. Yes.

17 Q. And do you think there were other  
18 conversations?

19 A. With Dr. Park?

20 Q. With Dr. Park or anybody from the AVMA,  
21 prior to meeting Dr. Gillette.

22 A. Yes. I had a conversation with, I  
23 believe it was Dr. Sabin.

24 Q. Okay.

1 A. No.

2 Q. After you met with Dr. Gillette --  
3 before we get to that, I was going to ask you a  
4 couple of quick questions about this. I'm sorry.

5 Were you ever made aware or have an  
6 earlier version of these guidelines prior to May  
7 2003 to your knowledge?

8 A. No. I recall finding these in my  
9 materials when I produced all the documents to the  
10 defendants, and this would have been certainly the  
11 earliest, and I have -- I don't believe I ever  
12 received anything unless it was from your document  
13 production about a later version of this.

14 Q. If you'd turn in Exhibit 4 to page 3.

15 MR. KLUFT: I'm sorry. What do you mean  
16 by 3? Would you read a Bates number?

17 MR. DICKISON: 2433. I was referring to  
18 page 3 in the document, but 2433.

19 Q. Do you see a section here called  
20 "Guidelines for Establishment, Recognition and  
21 Supervision of Veterinary Specialty Organizations"?

22 A. Yes.

23 Q. Was it your understanding that such  
24 organizations would only be recognized by the AVMA

1 if they were essentially servicing only  
2 veterinarians or certifying only veterinarians?

3 A. Yes.

4 Q. And was it your understanding that the  
5 AVMA would only recognize a veterinarian specialty  
6 organization that was a nonprofit?

7 A. I need a little bit of clarity here.  
8 Are you asking this question based on what I  
9 believed after my conversations before this 2003  
10 or -- because we're looking at a 2003 document and  
11 yet that information that you're asking me about  
12 came from conversations that happened several years  
13 before.

14 Q. Okay.

15 A. So there's --

16 Q. That's a fair statement. Without  
17 belaboring the point, what did you know at the time  
18 you went to the conference at which you met Dr.  
19 Gillette, what did you know were the requirements --  
20 the essential requirements for becoming a recognized  
21 veterinary specialty organization by the AVMA?

22 A. Just that you -- one had to fulfill the  
23 specific guidelines set forth by the AVMA, and that  
24 depending on when an organization requested

1           A.           That may be true. I don't remember when  
2 I got my domains, and I could refresh my memory from  
3 the interrogatories.

4           Q.           Actually, my next -- the next document I  
5 marked under here is a document from your  
6 production, Exhibit 7. It's a separate document.

7           A.           Okay. Oh, good.

8           Q.           Do you recall producing this?

9           A.           Thank you. Yes. That's what I was  
10 hoping to find. Okay.

11          Q.           And this document appears to reflect the  
12 fact that you two days after this email from Dr.  
13 Gillette went online and registered the domain name  
14 ACVSMR.com under the name of Homecoming Farm, Inc.  
15 with you being the administrative contact. Is that  
16 accurate?

17          A.           Based on the dates that are on these,  
18 yes.

19          Q.           And you also registered on January 2nd,  
20 2003 the domain name ACVSMR.org?

21          A.           Yes.

22          Q.           Did you have any conversations with Dr.  
23 Gillette or anyone else on the organizing committee  
24 about your registration of those domain names?

1           A.           Actually, I believe I had originally  
2 registered these in 2001, and the reason I remember  
3 that date is that it happened in the context of a  
4 computer lab that was part of the AVMA conference  
5 when it was in Boston, and I took part in that lab,  
6 and it was how to use computers and the Internet in  
7 your practice, something like that.

8                       And one of the things that the  
9 instructor was very clear about was, when we get to  
10 the end of the day, I'm going to go around to each  
11 one of you. We went through PowerPoint and things  
12 like that, and he said even if you're not online  
13 now, I want to help every one of you to purchase  
14 domains because some day, you know, these may not be  
15 available. And so it was through that assistance  
16 that I believe I first registered both ACVSMR, and I  
17 don't know if it would have been .com, .org, and  
18 Homecoming Farm.

19           Q.           And when would that have occurred?

20           A.           I believe that conference was in 2001.  
21 It would be easy to find out because I know it was  
22 the Boston conference.

23           Q.           Do you remember the AVMA representative  
24 or --

1           A.           Yes, that's Zack March.

2           Q.           He was the AVMA representative?

3           A.           He taught the course.

4           Q.           Did he specifically help you registering  
5 this domain name, ACVSMR?

6           A.           I believe he did, yes.

7           Q.           Okay. It appears from your production  
8 of documents that we don't have that registration  
9 information. Do you know why?

10          A.           I do. And I went on whatever that  
11 service is where you, you know, look up who owns  
12 something, and when it only went back to this date,  
13 I contacted them, and asked if I could find the date  
14 that I had previously registered it, and they said  
15 if it was transferred and if it wasn't continuously  
16 maintained, then it would be a brand-new name in  
17 terms of the system.

18                       And back then I believe there was a high  
19 fee for transferring a domain, not like now where  
20 they'll give you a free year if you do it. There  
21 was either a fee to do it, but there was a reason  
22 that I wanted to switch to Go Daddy, which I'm sure  
23 was price, and so I let those domains expire and  
24 immediately picked them up as soon as they were

1 available. But when I contacted whatever that  
2 service is, they said that that record would not be  
3 available. And obviously it had not been with Go  
4 Daddy, so it's not part of their records.

5 Q. Let me ask you this. When do you  
6 believe you did -- do you remember what year you  
7 believe you first registered these domains?

8 A. I believe it was '01.

9 Q. Is it fair to say that even though you  
10 registered those domains in '01 you never took the  
11 next step of creating a web page and putting  
12 material online?

13 A. That's correct. I didn't have a  
14 computer.

15 Q. So would it be fair to say that Dr.  
16 Gillette putting the mark on his website in December  
17 of 2002 would have been likely the first time that  
18 the name or mark American College of Veterinary  
19 Sports Medicine and Rehabilitation actually went  
20 online?

21 A. That may be true.

22 Q. What prompted you to re-register, as  
23 evidenced by Exhibit 7, on January 2nd, 2003?

24 A. To re-register?

1           Q.           Well, according to this documentation  
2           you produced, a registration of some sort was made  
3           by -- was created on January 2nd, 2003.

4           A.           Yes.

5           Q.           And so my question to you is what  
6           prompted you on that date -- did you even own a  
7           computer at that point in time, January 2nd, 2003?

8           A.           I know I did in '02, so that could have  
9           been. I may have gotten it for Christmas, who  
10          knows.

11          Q.          Do you know why on that particular date  
12          you took the action of registering the websites  
13          ACVSMR.org and ACVSMR.com?

14          A.          I believe it was related to when the  
15          domains had expired and then I would re-up them with  
16          a different provider.

17          Q.          Was it -- did Dr. Gillette's email of  
18          December 30, 2002 in which he represented to  
19          everybody on the organizing committee at that point  
20          in time that he was putting this name on the  
21          Internet have any part in prompting you to go out  
22          and register these two domain names that are  
23          exhibited in Exhibit 7?

24          A.          No, I owned them. I owned the name, so,



1 see that there's been an addition in the first  
2 paragraph here.

3 Q. Okay.

4 A. So I don't know, but if we got it from  
5 you.

6 MR. LYONS: And just for the record, she  
7 was pointing to Exhibit 9. So the record is clear,  
8 and the lawyers are right about that, when you  
9 indicate to an exhibit or point to something, make  
10 sure that you mention it so the record is clear.  
11 You were pointing to Exhibit 9 --

12 THE WITNESS: Yes.

13 MR. LYONS: -- as the document you last  
14 saw; is that correct?

15 THE WITNESS: That's correct. I'm  
16 sorry.

17 Q. That's all right. Do you generally  
18 understand that a letter of intent was submitted to  
19 the AVMA in January of 2003 by the organizing  
20 committee?

21 A. Yes.

22 Q. And you agreed and consented to the fact  
23 that a letter of intent be submitted in January of  
24 2003 to the AVMA for the recognition of a specialty

1 organization in veterinary sports medicine and  
2 rehabilitation?

3 A. Yes.

4 Q. And you at that time agreed and  
5 consented that the name of the organization to be  
6 recognized would be called The American College of  
7 Veterinary Sports Medicine and Rehabilitation?

8 A. Yes.

9 Q. And why was it that Dr. Gillette was the  
10 one signing the letter of intent and actually  
11 submitting it and not yourself?

12 A. Dr. Gillette asked me if I would agree  
13 to name him as the chair of the committee. He  
14 explained that it would help him a great deal in his  
15 desire to advance in his career at Auburn, and in  
16 particular in academia, so when we were in Michigan,  
17 he asked me if I would please allow him to be the  
18 official chair. So that's why his name was on this  
19 letter.

20 Q. Okay. Now, with respect to this  
21 document, there's the names and credentials --

22 A. Yes.

23 Q. -- of the various members. And you  
24 agree, do you not, that you were one of the original

1 Q. Where were you in January of 2003? Were  
2 you at a specific stable doing specific services?

3 A. I'm sure I was, but I don't recall.

4 Q. Did you have multiple clients in England  
5 at that time?

6 A. Yes.

7 Q. And so are there any records that you  
8 could look at to learn precisely where you were  
9 around January 24th -- between January 19 and  
10 January 24, 2003?

11 A. None that I've come across in my search  
12 for documents so far.

13 Q. Let me show you what's been marked as  
14 Exhibit 11 and ask you if that's a copy of an email  
15 exchange between you and Dr. Sabin in January 2004?

16 A. I don't specifically recall this  
17 document, but that would seem consistent with what I  
18 remember.

19 Q. Let me just ask you, after the letter of  
20 intent was submitted in January of 2003, what  
21 activities in between this email exchange of January  
22 2004 with Dr. Sabin, what activities did you  
23 generally engage in with respect to getting the  
24 organizing committee recognized by the AVMA?

1 Q. Let me show you what's been marked as  
2 Exhibit 12. Do you recognize this document, these  
3 two documents?

4 A. I recognize it from the documents that  
5 the defendants have produced.

6 Q. Had you ever seen it before this  
7 litigation?

8 A. I believe I saw a physical copy of this  
9 actually at the meeting.

10 Q. And was this something that you received  
11 in the mail or otherwise inviting you to come to the  
12 meeting?

13 A. No. I think I helped to plan the  
14 meeting, so I wasn't really invited to it.

15 Q. Did you consent at the time that this  
16 document went out to the use of the name American  
17 College of Veterinary Sports Medicine and  
18 Rehabilitation?

19 A. Yes.

20 Q. And is this an accurate list of the  
21 agenda for the meeting on the second page?

22 A. Yes, I believe it is.

23 Q. You attended the meeting, right?

24 A. Yes, I did.

1 Q. Did you actually give the 10:00 a.m. to  
2 11:00 a.m. incorporation overview of options,  
3 reasons and summary of legal advice?

4 A. I gave that information. I'll trust  
5 that it was between 10:00 and 11:00.

6 Q. At some point that morning?

7 A. Yes.

8 Q. And approximately at some point did you  
9 impart to the other attendees that information about  
10 the draft of the articles of incorporation and  
11 bylaws?

12 A. Yes, I did.

13 Q. At this point in time at the Chicago  
14 meeting, at least as evidenced by this agenda, you  
15 were doing a lot of laboring work for this  
16 organizing committee. Is that fair to say?

17 A. Yes. I was doing the laboring work and  
18 I had contributed the substance of the rest of what  
19 the organizing committee was working with, so yes.

20 Q. At this meeting it said ABVS liaison  
21 attendees scheduled to attend was Dr. Larry Dee and  
22 Dr. Leon Russell. Did either of those gentlemen  
23 attend this meeting in Chicago?

24 A. That's a very good question. I believe

1       communicated to the AVMA that you wanted this  
2       organizing committee to be recognized, this  
3       organizing committee having the name American  
4       College of Veterinary Sports Medicine and  
5       Rehabilitation, you wanted it to be recognized at  
6       the AVMA?

7           A.       As long as you add that it would include  
8       my name as well, then yes.

9           Q.       What do you mean by that, that you would  
10      be one of the founding members?

11          A.       Yes. Absolutely. I would really be the  
12      founding member.

13          Q.       And that was what you had told the AVMA  
14      either directly or indirectly up until July of 2004?

15          A.       Directly or indirectly, I'm just not  
16      sure I understand what the scope of that is.

17          Q.       Well, let me ask you the question  
18      another way. Since you walked out of that meeting  
19      in Philadelphia, have you ever informed the AVMA  
20      that you were objecting to the recognition of the  
21      organizing committee chaired by Dr. Gillette and  
22      objecting to it being a recognized veterinary  
23      specialty organization?

24          A.       No.

1           Q.           Following the Philadelphia meeting, did  
2 you make any communications or write any letters to  
3 anyone else about what occurred there?

4           A.           I don't recall.

5           Q.           Did you make any -- did you write any  
6 letters to any of the members of the organizing  
7 committee who didn't attend the Philadelphia  
8 meeting?

9           A.           I believe they were all there.

10          Q.           Did you at any point assert any claims  
11 against Dr. Gillette or any of the other members of  
12 the organizing committee following July of 2004 up  
13 until this case?

14          A.           Make any claims?

15          Q.           Sure. Did you file a lawsuit?

16          A.           Oh, no.

17          Q.           Now, my understanding is there was an  
18 exchange of correspondence between your attorneys  
19 and the committee's attorneys about the use of the  
20 mark at some point?

21          A.           Yes. We -- I received a letter from an  
22 attorney representing Dr. Gillette and I believe  
23 what she referred to as an unincorporated board of  
24 directors, and she acknowledged that I owned the

1 registered trademark, The American College of  
2 Veterinary Sports Medicine and Rehabilitation, and  
3 she asked me if I would reassign the registration to  
4 her client because he now intended to use it. And  
5 at that point that was when I became aware that they  
6 had apparently reformed, because as I saw it at the  
7 end of that Philadelphia meeting, I owned the name,  
8 I owned the materials, I explained that none of them  
9 could use any of them, so as I saw it, they no  
10 longer had a committee, certainly for the ACVSMR.

11 Q. Let me ask you this. Following  
12 basically the end of your tenure of your organizing  
13 committee, did you ever contemplate starting or  
14 using Homecoming Farm as a specialty organization  
15 and attempting to get recognition for that as a  
16 veterinary specialty organization recognized by the  
17 AVMA?

18 A. In the name Homecoming Farm?

19 Q. Just -- strike that. Let me ask you in  
20 general did you ever contemplate filing a competing  
21 petition with the AVMA?

22 A. After the experience of the meeting in  
23 Philadelphia and the complete inaction of the AVMA  
24 representative, it wasn't within my imagination that



1 the AVMA would accept or work with me. I wouldn't  
2 have even seen it as a competing petition, because  
3 if I thought that that was an avenue that I could  
4 pursue that would be productive for my original  
5 purpose, I would have done it right after I left  
6 that meeting. But after seeing the way the AVMA  
7 handled that, I just abandoned that thought and just  
8 went on and continued the good work we do, continued  
9 to develop certification programs of our own really  
10 without asking for the AVMA's additional stamp of  
11 approval.

12 Q. And what prompted you filing this  
13 lawsuit several years later after July 2004 in  
14 December of 2011?

15 A. Oh, that was the willful infringement of  
16 both the trademark and the copyright. And my  
17 attorney sent a cease and desist letter to Dr.  
18 Gillette and his unincorporated board members and in  
19 that letter it promised that if he continued to  
20 infringe on my registered trademark that we would  
21 take all action to defend my property.

22 Q. And what did the AVMA do that infringed  
23 on your trademark?

24 A. The AVMA I discovered from the documents

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Exhibits: 14-53

Volume 2, Pages 210-439

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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SHEILA LYONS, DVM and HOMECOMING  
FARM, INC.,

Plaintiffs

v Civil Action No. 1:11-CV-12192

THE AMERICAN COLLEGE OF VETERINARY  
SPORTS MEDICINE AND REHABILITATION,  
INC. and THE AMERICAN VETERINARY  
MEDICAL ASSOCIATION, INC.,

Defendants

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DEPOSITION OF SHEILA LYONS  
Wednesday, January 16, 2013, 10:04 a.m.

Lawson & Weitzen, LLP

88 Black Falcon Avenue, Suite 345

Boston, Massachusetts

----- Reporter: Alan H. Brock, RDR, CRR -----

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21  
22  
23  
24

1 fairly shortly -- there is a term used  
2 "paraprofessional." Does a farrier concern a  
3 veterinary paraprofessional?

4 A. No, not in my use of that term.

5 Q. What is a -- I'm sorry. Were you finished  
6 with your answer?

7 A. Yes.

8 Q. What is a paraprofessional?

9 A. My definition of a paraprofessional would  
10 be someone who both serves a professional but  
11 someone whose professional territory, if it were,  
12 had some clear definition. So one example of a  
13 paraprofessional that I would give would be a  
14 physiotherapist.

15 Q. And what kind of training would a  
16 physiotherapist have? Would they be a veterinarian?

17 A. No.

18 Q. Would they have a master's degree of some  
19 sort?

20 A. Typically. I believe today they would,  
21 yes.

22 Q. And in some of the documents, specifically  
23 documents that were marked as fundraising documents  
24 of Homecoming Farm and/or the ACVSMR project, I saw

1 requests for grants for paraprofessional  
2 certifications. Can you explain what  
3 paraprofessionals the Homecoming Farm works with?

4 A. Well, the paraprofessional groups that we  
5 have structured our long-term plan to offer  
6 certification in would be physiotherapists, and  
7 there would be a new category of farrier, and that  
8 would be a farrier who has a college degree. And we  
9 are working with or have developed guidelines for a  
10 master's degree in farrier science.

11 Q. Were you finished?

12 A. Yes.

13 Q. And is that a master's degree that it is  
14 your plan for the ACVSMR project to offer?

15 A. No. That would be a master's degree that  
16 would be offered by other institutions but where a  
17 good deal of the training that would contribute to  
18 that educational project would take place through  
19 the ACVSMR.

20 Q. And do you currently have -- and when I say  
21 you, I mean Homecoming Farm. Does Homecoming Farm  
22 currently have any certification programs that are  
23 already in place and operating?

24 A. We don't have any certification programs

1 today that are offering credentials, and it's only  
2 because our funding hasn't supported it -- which is  
3 not at that point of maturity. We need our campus  
4 before we can do that.

5 Q. And do I take it from your answer that  
6 Homecoming Farm has never to date offered a  
7 certification program that was -- in other words,  
8 that was ready for students to enter?

9 A. Not in open admission.

10 Q. And have you done any kind of  
11 certification? I'm not sure I understand the term  
12 "open admission."

13 A. Well, in other words, what Homecoming plans  
14 to do through its ACVSMR project is to have a main  
15 campus where we can continuously run courses for  
16 physiotherapists, for equine health care managers --  
17 that would be another certificate that we intend to  
18 offer -- for farriers and --

19 Well, we'll leave it at that for now.  
20 And so we are putting our energy and our focus  
21 toward creating that main campus. And then the  
22 certification programs will be able to -- when I say  
23 open admission, there will be courses that begin on  
24 a certain date, take place at our campus, and then

1 the AVMA. Have you produced those documents?

2 A. Yes.

3 Q. Do you have any documents created by  
4 anybody else that are in your possession that  
5 pertain to recognition by the AVMA?

6 A. Yes.

7 Q. Do you have documents created by any  
8 defendant that pertain to recognition by the AVMA  
9 that you have not produced?

10 A. No.

11 Q. We've going for about an hour. I usually  
12 ask every hour if you want a break, so I'll ask it  
13 now.

14 A. I'm good if you're good.

15 Q. Okay. Let's continue.

16 I want to ask you a couple of questions,  
17 following up from yesterday, about the trademark and  
18 copyrights at issue in this case. Have you ever  
19 used the ACVSMR mark to sell veterinary services --  
20 in other words, your own personal veterinary  
21 services that you charge for?

22 A. When you say "try to sell," no.

23 Q. Obviously, I understand that it's in your  
24 bio; correct?



1 A. Yes.

2 Q. But have you ever sold veterinary services  
3 under the business name ACVSMR?

4 A. No.

5 Let me continue that answer.

6 Q. Please.

7 A. I use these founder and director or some  
8 ACVSMR distinction in my reports or whatever for  
9 private patients. So that's not -- at least in my  
10 mind, that's not trying to sell something.

11 Q. Right.

12 A. That's just stating a fact.

13 Q. I understand. What I'm asking is something  
14 different, which is: Do any of your clients, to  
15 your knowledge, think that when they hire you to  
16 perform veterinary services, they are hiring an  
17 organization or a company called ACVSMR?

18 A. You would have to ask them, but it's  
19 certainly not my sense that they do.

20 Q. Understood. Can you take a look at Exhibit  
21 1, which should be in the pile of yesterday's  
22 exhibits. And this is your complaint in this  
23 action. And I'm going to ask you to turn to Page 5,  
24 Paragraph 17. Let me know when you've had a chance

1 A. Everywhere.

2 Q. When was the first distribution of this  
3 document after it was produced in 1996?

4 A. I believe near that June 1st date in 1996.

5 Q. How did -- I'm sorry; I didn't mean to  
6 interrupt you. How did you -- who did you send it  
7 to at that time? Do you have a list?

8 A. I produced in my document production for  
9 the defendants material relating to that, but I  
10 don't have a discrete list. I sent it to  
11 pharmaceutical companies, to veterinary schools, to  
12 physical therapy schools, to horse owners, to  
13 industry associations. I sent it widely.

14 Q. I saw in your production -- and if this is  
15 a mischaracterization, just tell me -- a lot of  
16 copies of magazines and brochures and articles. And  
17 in some cases there was a sort of, I don't want to  
18 say scribble, but there was handwriting on the side  
19 that said "Send EEI" or "Sent EEI." Yes. Is that  
20 how you decided to whom to send a copy of this?

21 A. The decision of whom to send it to came  
22 from many different sources. So, for example, if I  
23 were sending them to veterinary schools, I would  
24 have gotten the addresses for a number of veterinary

1 schools and sent them.

2 But then when I would do things like go  
3 to a competition on behalf of a client, whatever --  
4 in my travels, when I came upon either individuals  
5 that I thought I'd like to sent it to, or companies,  
6 then I would keep those source materials, make a  
7 note to myself, and then send it off.

8 Q. Okay, fair enough. So is it fair to say  
9 that this was not sent in one bulk mailing but in  
10 many, many mailings and many, many hand  
11 distributions over time?

12 A. Many, yes.

13 Q. Can you please turn to Bates Stamp 3435.

14 I'm sorry, please turn to 3420 first.  
15 And specifically, that's a document called the  
16 articles of incorporation.

17 A. Yes.

18 Q. And is it fair to say that this document  
19 goes to about Page 3435?

20 A. Yes. 3434, actually.

21 Q. Correct. I apologize. Now, yesterday  
22 Mr. Dickison asked you about the creation of the  
23 bylaws for the ACVSMR organizing committee; correct?

24 A. Yes.

1 to adapt it significantly to be suitable for  
2 veterinarians.

3 Q. Is there a specific document that you  
4 referred to that had been used -- I'm sorry. Let me  
5 start the question again. When you were drafting  
6 the bylaws and articles of incorporation, was there  
7 a specific document that had something to do with a  
8 human-medicine organization that you were referring  
9 to?

10 A. There were several. It was from a number  
11 of different sources.

12 Q. And what were those?

13 A. Oh. I was generally informed by so many  
14 different sources. I can't name documents.

15 Q. I'm specifically asking if there's any  
16 documents that you borrowed language from. You  
17 mentioned boilerplate, and I'm wondering what those  
18 documents were. That's what I'm getting at here.

19 A. When you say "documents," it would have  
20 been in the structure of the corporate structure.  
21 So whether I obtained them through advice from a  
22 nonprofit attorney or not, I don't recall.

23 Q. So fair to say that the sections you  
24 described as legalese were not your original work,

1 "your" referring to the more substantive sections of  
2 these bylaws, when you say you're the author of  
3 them?

4 A. Yes, although, again, whether some of those  
5 sections -- I would have to read it carefully and  
6 read each section to know whether or not I had --

7 I think actually some of it was specific  
8 to the ACVSMR.

9 Q. Can I ask you to turn to Page 3435, please.

10 MR. LYONS: Exhibit 15?

11 MR. KLUFT: I'm sorry, yes, the same  
12 exhibit, 15.

13 Q. Can you identify this page or the document  
14 that begins with this page?

15 A. Yes.

16 Q. Can you turn back to the second page of  
17 this document, so the one that is the certificate of  
18 registration for copyright. And I'm not trying to  
19 trick you here. I'm just trying to figure out what  
20 document this is. In other words, on Document 3435,  
21 I don't see that listed as one of the titles of  
22 work. Can you explain what this document, 3435, is  
23 doing in this set?

24 A. I believe it was in the beginning of the

1 in some cases there was verbatim copying, and in  
2 others it was just a -- I shouldn't say "just"; it  
3 was a studied rephrasing of my material. They  
4 copied it.

5 Q. Understood. And that's the distinction I  
6 was making between verbatim and rephrasing, as you  
7 put it.

8 Let me show you another document, and I  
9 want to ask you more about the verbatim stuff only,  
10 right now. I understand there are others in this  
11 case, but I'm trying to get as granular as I can so  
12 that I can understand what your claims are.

13 MR. KLUFT: Steve, do you want to take a  
14 break?

15 MR. LYONS: It's 11:30. How about a  
16 five-minute break?

17 MR. KLUFT: Absolutely.

18 (Exhibit 16, affidavit of Sheila Lyons,  
19 marked for identification.)

20 MR. KLUFT: Back on the record.

21 Q. Are you ready to continue, Dr. Lyons?

22 A. Yes.

23 Q. I've marked over the break, had marked, a  
24 document, Exhibit 16. There's already a copy in

1 front of your attorney. I am not going to go  
2 through this entire document, but let me just ask  
3 you: By looking at the front page, do you recognize  
4 this document?

5 A. Based on looking at the front page, yes.

6 Q. Is this in fact -- this purports to be your  
7 affidavit in this case; correct?

8 A. Yes.

9 Q. And I want you to please turn to Page 17,  
10 Paragraph 95. When you've taken a look at that --

11 In fact, I think in context, why don't  
12 you read 93 through 95, because I don't want to....

13 Have you had a chance to look at it?

14 A. Yes.

15 Q. Obviously you can see Paragraph 95 refers  
16 to an Exhibit M; correct?

17 A. Yes.

18 Q. Can I also ask you to take a look at  
19 Exhibit M, which I'll represent to you is Document  
20 13-14, starting on Page 1 of 4. Now, my question to  
21 you is: As of the time of this document, which is  
22 dated February 24th, 2012, or thereabouts --

23 That's when you composed this document,  
24 approximately shortly before it was filed; is that

1 correct?

2 A. I believe that's correct.

3 Q. And as of that time, were these the  
4 instances that you were aware of verbatim copying by  
5 my clients of your copyrighted work?

6 A. Yes, based on the materials that I had  
7 available to me at the time.

8 Q. Since that time you've had other materials  
9 available to you; is that correct?

10 A. Yes.

11 Q. Sitting here today, do you know of any  
12 other instances of verbatim copying by my clients?

13 A. Yes.

14 Q. Can you tell me what those are?

15 A. Well, I would need your clients' petition  
16 to the AVMA, and I would need to go through it line  
17 by line and compare it with my copyrighted documents  
18 in order to be able to answer that question. And  
19 I'm happy to do that --

20 Q. Well, I appreciate that, and that's  
21 obviously something I can do as well on my own. I  
22 guess what I'm asking you is: My understanding is  
23 that you have already -- you had access when you  
24 created this document to the November 2009 petition;



1 and the next page after that. Do you see that?

2 A. Yes.

3 Q. And my question is: Is that an amount you  
4 were requesting, or is that an amount you -- is that  
5 the amount of funds that the organization had raised  
6 each year?

7 A. I would need to see our tax returns to be  
8 able to compare how much we raised each year to the  
9 figures in this letter requesting support to answer  
10 that question.

11 Q. Can I ask you to turn to Page 3513. About  
12 in the middle of the page do you see it says 1997,  
13 \$126,340?

14 A. Yes.

15 Q. And the second paragraph under that starts  
16 with, "Our ACVSMR farrier programs"?

17 A. Yes.

18 Q. "Our ACVSMR farrier programs began in  
19 earnest this year." By "this year" were you  
20 referring to 1997?

21 A. It would appear so.

22 Q. What did you mean -- you authored this  
23 document; correct?

24 A. Yes.

1 Q. What did you mean by "began in earnest"?

2 A. Again, I would need records that go back to  
3 1997 to see how many students we were working with.  
4 But to the best of my recollection, that would  
5 suggest that we had more applicants, more -- a  
6 greater ability to offer educational services.

7 Q. Well, by "programs" were you referring to  
8 seminars conducted in Europe and several states? Is  
9 that what you meant by the programs starting?

10 Maybe I can ask a better question. If  
11 I'm a farrier in 1997, how do I find out about the  
12 ACVSMR program for farriers?

13 A. Actually, it was mostly word of mouth with  
14 farriers.

15 Q. And the programs that you were offering,  
16 were they, again, like we talked about before, at  
17 other people's farms?

18 A. Yes.

19 Q. Now, it refers to here "Cali Tech in  
20 Pomona." Is that Michael Savoldi's college?

21 A. Yes.

22 Q. It talks about developing a master's degree  
23 program in farrier science. Was that ever  
24 developed?

1 say, for instance, '03, '04, '05?

2 A. No, I don't.

3 Q. Now, yesterday Mr. Dickison asked you about  
4 an incident or you told Mr. Dickison about an  
5 incident with Jess Jackson. Do you remember that?  
6 Is it a Mr. Jackson?

7 A. Yes.

8 Q. And he's passed away; correct?

9 A. Yes.

10 Q. And when was that, approximately, that he  
11 passed away?

12 A. Last year.

13 Q. And you understood that Jess Jackson was  
14 going to stop giving you business based on the  
15 actions of the AVMA. Was that your testimony? And  
16 again, this is another instance of my imperfect  
17 memory.

18 A. Well, I was being asked the question by the  
19 AVMA.

20 MR. KLUFT: Right.

21 A. So my answer was responsive to the AVMA.

22 Q. I'm not trying to exclude my client. I'm  
23 just asking -- I understand that you've already  
24 testified that all the harm created by the AVMA is

1 the same as the harm you're alleging created by my  
2 client. I'm just asking, is that what essentially  
3 you testified to that Mr. Jackson said he had heard  
4 about something with regard to the AVMA and that was  
5 going to cause him to stop giving you business?

6 A. No.

7 Q. What did he say to you precisely?

8 A. I don't recall what he said to me  
9 precisely.

10 Q. And when was the last time he did hire you?

11 A. At that race.

12 Q. And then he passed away shortly thereafter?

13 A. No. Two and a half years later. I think;  
14 I don't remember the date of his death.

15 Q. And in the intervening two and a half  
16 years, do you have knowledge that he hired someone  
17 else to do the job that you were doing? Sitting  
18 here today, do you know whether or not he hired  
19 someone else to do the job that you were doing?

20 A. Other veterinarians would have done the job  
21 that I did to the degree that they were capable of  
22 doing it.

23 Q. Do you know for a fact that he actually  
24 hired other people to do that job whether or not

1 they were capable of it?

2 A. Well, I think my difficulty in answering is  
3 that when you say "hired," veterinarians work for  
4 many clients, and the horses travel extensively. So  
5 Mr. Jackson and his trainers would have many  
6 veterinarians working with them. So to say  
7 specifically hire someone else -- all I know is that  
8 I did no more work for him after that incident.

9 Q. Did he have employees?

10 A. I can't testify about Mr. Jackson's --

11 Q. What I'm asking is, did anybody else that  
12 worked with Mr. Jackson or to Mr. Jackson also talk  
13 to you about this issue? Or it was just based on  
14 your conversation with him?

15 A. I believe it was just based on....

16 Q. And you also mentioned an incident in Hong  
17 Kong at the, quote, "Beijing Olympics." Is that  
18 correct?

19 A. That's correct.

20 Q. I was a little confused, I had to ask  
21 somebody yesterday was there a Hong Kong Olympics,  
22 and Mr. Segal said the horses were there. You had  
23 mentioned that a physiotherapist had said that  
24 somebody had said something about your

1 qualifications. Is that my --

2 A. Yes.

3 Q. I'm guessing, based on your testimony  
4 today, that person was Jane Hutton; is that correct?

5 A. Yes.

6 Q. And she had said that other -- that  
7 horsemen had been talking about this issue? Is that  
8 what you testified to?

9 A. I don't recall what I testified to. That  
10 she had been told that the reason that I was removed  
11 from the organizing committee was that I am not  
12 really a doctor.

13 Q. Those were Jane Hutton's words?

14 A. Well, that's my recollection of what she  
15 communicated.

16 Q. That's all I'm asking. Did she give you a  
17 name of who told her that?

18 A. She did not.

19 Q. And you connected yet Dr. Clayton with that  
20 statement.

21 A. Yes.

22 Q. How is it that you connect Dr. Clayton with  
23 that statement?

24 A. Because another physiotherapist was there

1 who is employed by Dr. Clayton's lab.

2 Q. And what did that physiotherapist, if  
3 anything, say to you about this issue?

4 A. She has said nothing to me. But I believe  
5 that she is the one that spoke to Jane Hutton.

6 Q. Did Jane Hutton tell you that?

7 A. I don't recall. That's why I don't want to  
8 be clear -- I don't want to make a definitive  
9 statement. She may have, or it may have been  
10 implied because she had seen Narelle and had spent  
11 time with her.

12 Q. That's her name, Narelle?

13 A. Yes.

14 Q. What's her last name?

15 A. Stubbs.

16 Q. You were the one that recommended Dr.  
17 Clayton to be on the organizing committee; isn't  
18 that correct?

19 A. I invited her to join my organizing  
20 committee.

21 Q. And some of the organizing committee  
22 members were invited by Dr. Gillette as well; isn't  
23 that correct?

24 A. With agreement from me, yes. We discussed

1 who else might be invited.

2 Q. And then to cut to the chase, you invited  
3 the horse people and he invited the dog people? Is  
4 that generally --

5 A. Pretty much.

6 Q. And Dr. Clayton's a horse person; correct?

7 A. Yes.

8 Q. And why did you select her?

9 A. Dr. Clayton has a lab at Michigan  
10 Veterinary School that conducts research in sports  
11 medicine in horses. I know that she has an interest  
12 in the horse sports, and she has an academic  
13 appointment, which I had been told the AVMA prefer  
14 that I have academics on my committee.

15 MR. KLUFT: Let me mark another  
16 document, as Exhibit 28.

17 (Exhibit 28, Homecoming Farm website,  
18 marked for identification.)

19 Q. I'll tell you in advance I'm not going to  
20 ask you questions about the substance of this  
21 document. This is a document that was produced in  
22 this litigation with the cover page "Homecoming Farm  
23 Inc. Website." I just want you to authenticate that  
24 this was the website as of December 11th, 2012.



1 Q. And when was that?

2 A. Well, it was when I discussed it with Dr.  
3 Gillette, because I presented this as the ACVSMR  
4 project of Homecoming Farm, and then that was what  
5 we would go forward with.

6 Q. And so there was never any discussion about  
7 whether it should be called something else?

8 A. When we went to Michigan, there was just a  
9 discussion that would be the name, but not that it  
10 might be something else.

11 Q. And at Michigan, are you referring to the  
12 meeting between you and Dr. Gillette and Dr.  
13 Clayton?

14 A. Yes.

15 Q. I want to show you another document that  
16 needs to be marked.

17 (Exhibit 32, letter, marked for  
18 identification.)

19 Q. I'm not going to ask you about the  
20 substance of this document, by the way. I'm just  
21 going to ask you whether it's the letter that you  
22 sent.

23 A. I have to read it to know.

24 MR. KLUFT: Off the record.

1 Q. Would these people be engaged, had you  
2 engaged them -- strike that.

3 Let me move ahead to the Chicago  
4 meeting. I'm going to mark this -- I know the front  
5 page has already been marked, but I specifically  
6 want to show you some sections that haven't been  
7 marked.

8 (Exhibit 42, Organizational Meeting  
9 notes, marked for identification.)

10 MR. LYONS: You said that this has been  
11 previously marked, but this exhibit contains  
12 additional pages?

13 MR. KLUFT: The first two pages have  
14 been marked, and then there are additional pages  
15 after that.

16 MR. LYONS: And that is all part of the  
17 same document?

18 MR. KLUFT: As it was produced to me by  
19 my client, yes.

20 Q. I'm going to ask you to take a look at  
21 Pages 485 through to the end, 500. And I want you  
22 to tell me if these are the articles of  
23 incorporation and bylaws that you presented at the  
24 Chicago meeting.

1           A.   Without my copy of what I brought to the  
2 Chicago meeting, I wouldn't know whether this was  
3 what I brought with notes added onto it or --

4           Q.   That's an excellent point. Let me rephrase  
5 it. I'll represent to you that my understanding is  
6 these are handwritten notes of Dr. Gillette's. And  
7 what I'm asking you is -- I don't have any other  
8 copy of what was actually handed out at that  
9 meeting. And what I'm asking you is: Absent the  
10 handwritten notes, is this the version you brought  
11 to Chicago, as far as you know?

12          A.   To the best of my recollection, yes.

13          Q.   You can put that document aside. That's  
14 all I wanted to know. I apologize for that. I  
15 meant to mention the handwritten notes. It's late  
16 in the day.

17                   I want to show you another document.

18                   (Exhibit 43, email, marked for  
19 identification.)

20          Q.   Have you had a chance to review that  
21 document?

22          A.   Yes, I have.

23          Q.   And this is another document that purports  
24 to be an email exchange between you and Dr.

1 this email, which has been marked as Exhibit 48?

2 A. I remember seeing this in your document  
3 production, and I do remember that Lauren was  
4 communicating with Dr. Gillette when I was unable to  
5 have email, yes.

6 Q. And did she have your authority to  
7 communicate with Dr. Gillette?

8 A. Yes, she did.

9 Q. Let me move on to the next. Do you recall  
10 in September of 2004 receiving an email from Dr.  
11 Gillette to either Betsy Erickson or Asack, which  
12 answered a series of questions?

13 A. I remember seeing that in the production of  
14 documents.

15 Q. And is it your contention you did not  
16 receive that at the time?

17 A. Yes.

18 Q. I'm sorry?

19 A. I don't recall receiving it at the time.

20 Q. Do you know that you didn't receive it at  
21 the time?

22 A. I don't recall.

23 Q. Then I'll move through that and I will not  
24 mark it.

1           A.    This too is not a genuine copy of an email  
2   that I sent.

3           Q.    And what about 51?

4           A.    This is not a genuine document.

5           Q.    Okay.  Let's put them aside.  That's all I  
6   wanted to know.

7                     Now, you -- at some point the veterinary  
8   board matter you prevailed in; correct?

9           A.    Yes.

10          Q.    And subsequent to that, did you have any  
11   contact or did you or your attorneys have any  
12   contact with Ms. Erickson or Ms. Asack?

13          A.    Subsequent to the veterinary board?  No.

14          Q.    During the time the veterinary board matter  
15   was going on, did you have contact?

16                    Let me cut to the chase.  Did you ever  
17   threaten to sue them?

18          A.    I did sue them.

19          Q.    You did sue them.  And in what court was  
20   that?

21          A.    In Brockton.

22          Q.    And was that matter in the District Court  
23   or the Superior Court, if you know?

24          A.    I don't know.

1                   MR. LYONS: I'm happy to tell you. It  
2 was in the Superior Court.

3           Q. And was there a judgment in that case? Did  
4 it settle, or did the judge decide it?

5                   MR. LYONS: I'll say for the record that  
6 the case was resolved by mutual agreement. I think  
7 a judgment was part of it, but --

8                   MR. KLUFT: An agreed-upon judgment?

9                   MR. LYONS: Exactly.

10          Q. Did that involve the payment of money from  
11 them to you?

12          A. No.

13          Q. Now, are you aware that in 2009 both of  
14 them sent letters to Dr. Gillette?

15          A. Yes.

16          Q. And was that part of the agreed settlement,  
17 that they send those letters?

18          A. Yes.

19          Q. Did you review the letters before they were  
20 sent?

21          A. Yes, I believe so.

22          Q. Well, if it wasn't you, it was your  
23 attorney review --

24          A. Yes.

1 Q. What was the purpose of you having them  
2 sent?

3 A. Because they had made false and defamatory  
4 statements about me. They had altered emails and  
5 forwarded them. They created documents and made it  
6 appear as if I had created them and distributed  
7 them. So in exchange for not having to pay me a  
8 large sum of money, they had to write letters to let  
9 Dr. Gillette know that what they had said to him was  
10 in fact not true.

11 Q. Was there any other part of the settlement?

12 A. No.

13 Q. They didn't give you anything else but the  
14 letters?

15 A. No.

16 Q. Did they write to anybody else any other  
17 letters?

18 A. No.

19 Q. I just want you -- just two more things,  
20 and then we're done. It's 5:00 o'clock now. These  
21 are -- I'm going to mark these as the next two  
22 exhibits. They're not one document.

23 (Exhibit 52, Statement of damages,  
24 marked for identification.)

1 university. There was a lot of security to get into  
2 the lecture. And so I lectured for a couple of  
3 hours, and it was only that they revealed to me that  
4 they had received such crazy complaints from this  
5 woman, that I was scheduled to lecture and she was  
6 insisting that they cancel the lecture, and when  
7 they said that they were not planning to do that,  
8 she was so erratic that they had to actually hire  
9 extra security for the event.

10 Q. Let me ask you: Are you aware, sitting  
11 here today -- and I'm wrapping up, so I'm going to  
12 change the subject on you quickly. Are you aware,  
13 sitting here today, of any foundation that you  
14 applied for that, instead of giving money to you,  
15 gave money to the college that Dr. Gillette's  
16 involved in?

17 A. Well, that's actually a good question. As  
18 I've said before, I've not yet had a chance to  
19 review every one of your 15,000 documents in detail.  
20 But I have not seen the financials produced by  
21 ACVSMR.

22 Q. And I promise you, every single one of my  
23 questions I will say for the record is premised on  
24 the assumption that you haven't read 15,000



1 documents.

2 A. Okay.

3 Q. But let me ask you: Sitting here today,  
4 are you aware of any corporate sponsor that you  
5 approached but did not give money to you that gave  
6 money to Dr. Gillette's organization, the college,  
7 incorporated college, instead?

8 A. Again, I don't know what sponsors have  
9 chosen to sponsor his programs, so --

10 Q. Sitting here today, do you know if he has  
11 any -- whether or not?

12 A. I don't know anything about Dr. Gillette's  
13 sponsorships or financials.

14 Q. I want to just go back, so I understand, as  
15 sort of a final question: If you -- is part of the  
16 harm that you suffered as a result of my client's  
17 actions that you could not form your own specialty  
18 board because that market had been essentially  
19 captured because there was only room for one? Am I  
20 accurately assessing that part of your claim? And  
21 if I'm not, tell me I'm not.

22 A. No, that's not something that would -- no,  
23 that's not how I would say it.

24 Q. How would you phrase the harm to Homecoming